

ORDINANCE NO. 1996-01

AN ORDINANCE AUTHORIZING THE MUNICIPALITY OF BROOKVILLE, OHIO, TO EXECUTE AND DELIVER, AND TO PERFORM ITS OBLIGATIONS UNDER, A SECOND SUPPLEMENTAL TRUST INDENTURE, DATED AS OF JUNE 1, 1996, BETWEEN THE MUNICIPALITY OF BROOKVILLE, OHIO, AND BANK ONE OHIO TRUST COMPANY, NA, AS TRUSTEE AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Municipality of Brookville, Ohio (the "Issuer"), in accordance with Chapter 165 of the Ohio Revised Code, as amended (the "Act"), issued its Municipality of Brookville, Ohio Industrial Development Revenue Bonds, Series 1988 (Green Tokai Co., Ltd. Project) (the "Bonds"), in the original aggregate principal amount of \$7,000,000, pursuant to an Indenture of Trust between the Issuer and Bank One Trust Company, NA, f/k/a Bank One Ohio Trust Company, NA, as trustee (the "Trustee"), dated as of March 1, 1988, as amended by a First Supplemental Trust Indenture dated as of January 1, 1995 (the "Indenture"); and

WHEREAS, the Issuer and the Trustee desire to amend the Indenture in accordance with the terms and provisions of a Second Supplemental Trust Indenture between the Issuer and the Trustee, dated as of June 1, 1996, the form of which is attached hereto as Exhibit A (the "Second Supplemental Indenture");

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE MUNICIPALITY OF BROOKVILLE, OHIO AS FOLLOWS:

Section 1. Findings of Benefit and Compliance. The Council of the Issuer hereby finds and determines that the execution, delivery and performance of the Second Supplemental Indenture complies with the Act and will be of benefit to the health and general welfare of the Issuer.

Section 2. Approval of Second Supplemental Indenture. The Council of the Issuer hereby authorizes and approves the amendments to the Indenture made by the Second Supplemental Indenture.

Section 3. Execution of Second Supplemental Indenture. The execution and delivery by the Issuer of the Second Supplemental Indenture, and the performance by the Issuer of its obligations thereunder, is hereby authorized and approved. The Mayor and Clerk of the Issuer are hereby authorized and directed, in the

name and on behalf of the Issuer, to execute and deliver the Second Supplemental Indenture.

Section 4. Changes in Second Supplemental Indenture. The Mayor and the Clerk of the Issuer are hereby authorized, in the name and on behalf of the Issuer, without further approval of the Council, to approve such changes in the Second Supplemental Indenture as may be permitted by Act, such approval to be conclusively evidenced by their execution hereof.

Section 5. General. The Mayor and the Clerk of the Issuer, and each of them, are hereby authorized and directed, in the name and on behalf of the Issuer, to execute any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Ordinance (including the preambles hereto and the documents mentioned herein), and any such execution, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 6. Binding Effect. The provisions of this Ordinance shall constitute a binding contract between the Issuer and the holders of the Bonds, and, after execution and delivery of the First Supplemental Indenture, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

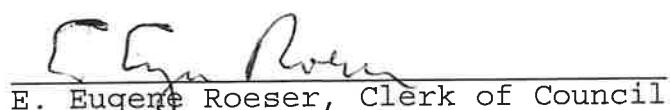
Section 7. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. Effective Date. This Ordinance shall be in full force and effect thirty (30) days after its adoption.

PASSED AND ADOPTED BY THE COUNCIL of the Municipality of Brookville, Ohio, on the 23rd day of May, 1996, and on said date signed by the Mayor and attested by the Clerk of Council.

  
\_\_\_\_\_  
Thomas L. Dafler, Mayor

ATTEST:

  
\_\_\_\_\_  
E. Eugene Roeser, Clerk of Council

CERTIFICATE

The undersigned, Clerk of Council of the Municipality of Brookville, Ohio does hereby certify that the foregoing is a true and correct copy of the Ordinance No. 1996-01 passed by the Council of said Municipality on the 23rd day of May, 1996.

  
E. Eugene Roeser, Clerk of Council

CERTIFICATION OF POSTING

The undersigned, Clerk of Council of the Municipality of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 1996-01 was posted at the Municipal Building, U.S. Post Office and the Brookville National Bank, Brookville, Ohio on the 24th day of May, 1996 to the 22nd day of June, 1996, both days inclusive.

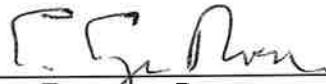
  
E. Eugene Roeser, Clerk of Council

EXHIBIT A

SECOND SUPPLEMENTAL TRUST INDENTURE

This Second Supplemental Trust Indenture, dated as of June 1, 1996, is between the MUNICIPALITY OF BROOKVILLE, OHIO, an Ohio municipal corporation (the "Issuer"), and BANK ONE TRUST COMPANY, NA, formerly known as Bank One Ohio Trust Company, NA, a national banking association duly organized and validly existing under the laws of the United States of America, as trustee (the "Trustee").

WITNESSETH:

WHEREAS, the Issuer and the Trustee have entered into an Indenture of Trust dated as of March 1, 1988, as amended by a First Supplemental Trust Indenture dated as of January 1, 1995 (the "Indenture"), authorizing the issuance of the Municipality of Brookville, Ohio, Industrial Development Revenue Bonds, Series 1988 (Green Tokai Co., Ltd. Project) (the "Bonds"), for the benefit of Green Tokai Co., Ltd., a Delaware corporation (the "Company");

WHEREAS, Tokai Trust Company of New York has resigned as Tender Agent for the Bonds effective as of June 22, 1996;

WHEREAS, the Company desires to appoint Bank One Trust Company, NA to succeed Tokai Trust Company of New York as Tender Agent for the Bonds effective as of June 22, 1996;

WHEREAS, Section 10.11(d) of the Indenture provides that any successor Tender Agent shall have an office in the City of New York, New York;

WHEREAS, Bank One Trust Company, NA does not have an office in the City of New York, New York, and, therefore, in order to appoint Bank One Trust Company as successor Tender Agent Section 10.11(d) of the Indenture must be amended to eliminate this requirement;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements herein contained and contained in the Indenture, the Issuer and the Trustee agree as follows:

Section 1. The clause "Any such successor shall have an office in the City of New York, New York" in Section 210.11(d) of the Indenture is hereby deleted.

Section 2. The Issuer and the Trustee acknowledge that, effective June 22, 1996, Bank One Trust Company, NA shall be, and hereby agree to the appointment of Bank One Trust Company, NA as, the successor to Tokai Trust Company of New York as Tender Agent for the Bonds under the Indenture and the Remarketing Agreement

(as defined in the Indenture) and the Issuer and the Trustee further agree that Bank One Trust Company, NA is authorized to act as Tender Agent for the Bonds under the Indenture and the Remarketing Agreement.

Section 3. This Second Supplemental Trust Indenture shall become effective as of June 1, 1995, following (a) receipt by the Trustee of the consents of the owners of 100% of the outstanding Bonds to this Second Supplemental Trust Indenture, (b) the execution of the consent of The Bank of Tokyo, Ltd., New York Agency, as Letter of Credit Bank (the "Bank"), in the respective forms attached hereto.

Section 4. Except as specifically amended hereby, all of the terms and conditions of the Indenture shall remain in full force and effect and unamended hereby. No reference to this Second Supplemental Trust Indenture need be made in any instrument or document at any time referring to the Indenture, a reference to the Indenture in any of such to be deemed to be reference to the Indenture as amended hereby. This Second Supplemental Trust Indenture may be executed in any number of counterparts and by separate parties hereto on separate counterparts, each of which when executed shall be deemed an original, but all such counterparts taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Second Supplemental Trust Indenture to be duly executed, and their respective seals to be hereunder affixed and attested, all as of the day and year first above written.

MUNICIPALITY OF BROOKVILLE, OHIO

By: Thomas L. Dafler  
Thomas L. Dafler, Mayor

(SEAL)

Attest:

E. Eugene Roeser  
E. Eugene Roeser, Clerk of Council

BANK ONE OHIO TRUST COMPANY, NA,  
as Trustee

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title: \_\_\_\_\_

(SEAL)

Attest:

Printed: \_\_\_\_\_  
Title: \_\_\_\_\_

CONSENT OF BONDHOLDER

This consent is being submitted as of the 1st day of June, 1995 by the undersigned owner of the following issued Bonds:

MUNICIPALITY OF BROOKVILLE, OHIO  
INDUSTRIAL DEVELOPMENT REVENUE BONDS, SERIES 1988  
(GREEN TOKAI CO., LTD. PROJECT)

CUSIP NUMBER: 114681AA7

The undersigned hereby certifies and represents as follows:

A. That the undersigned is the beneficial owner of the Municipality of Brookville, Ohio Industrial Development Revenue Bonds, Series 1988 (Green Tokai Co., Ltd. Project) (the "Bonds"), in the aggregate principal amount of \$4,000,000 registered in the name of \_\_\_\_\_.

B. That the undersigned acknowledges receipt of the form of the Second Supplemental Trust Indenture attached to this Consent as Exhibit A (the "Second Supplemental Indenture").

C. That, as the beneficial owner of the Bond or Bonds, the undersigned hereby: (1) consents to execution and delivery of the Second Supplemental Indenture in substantially the form attached hereto; (2) consents to the appointment of Bank One Trust Company, NA as Tender Agent for the Bonds effective June 22, 1996; and (3) waives any and all rights under Section 11.02 of the Indenture of Trust between the Municipality of Brookville, Ohio, and Bank One Trust Company, NA, f/k/a Bank One Ohio Trust Company, as trustee, dated as of March 1, 1988, as amended by a First Supplemental Trust Indenture dated as of January 1, 1995 (the "Indenture"), to receive any notice of the proposed execution and delivery of the Second Supplemental Indenture.

D. That this Consent of Bondholder shall be effective upon its execution, and shall be effective against any subsequent owner of the Bonds and of any Bond or Bonds issued in exchange therefor (regardless of whether the subsequent owner has notice of the consent to the Second Supplemental Indenture). This Consent shall not be a waiver of any right of the undersigned to receive notice of, or to consent to, any other or future event of which the undersigned must be notified, or to which the undersigned must consent, under the terms of the Indenture.

ATTEST:

[NAME OF BONDHOLDER]

Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

I, \_\_\_\_\_, a Notary Public in and for said  
County and State, do hereby certify that \_\_\_\_\_,  
personally known to me to be the \_\_\_\_\_ of  
\_\_\_\_\_, a \_\_\_\_\_, appeared before me  
this day in person and acknowledged that he, being duly  
authorized, signed and delivered said instrument as the free and  
voluntary act of such entity and as his free and voluntary act,  
for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this \_\_\_\_\_ day of  
\_\_\_\_\_, 1996.

\_\_\_\_\_  
Notary Public in and for  
\_\_\_\_\_  
County, \_\_\_\_\_

(SEAL)

My Commission expires: \_\_\_\_\_

CONSENT OF  
THE BANK OF TOKYO, NEW YORK AGENCY

The Bank of Tokyo, Ltd., New York Agency, hereby: (a) consents to, acknowledges and approves the Second Supplemental Trust Indenture dated as of June 1, 1996, between the Municipality of Brookville, Ohio (the "Issuer"), and Bank One Ohio Trust Company, NA, f/k/a Bank One Ohio Trust Company, NA, as trustee (the "Trustee"), and the execution and delivery thereof, and accepts the same as an integral part of the Indenture of Trust dated as of March 1, 1988, as amended by a First Supplemental Trust Indenture dated as of January 1, 1995 (the "Indenture"), between the Issuer and the Trustee; and (b) waives any and all rights under the Indenture to receive any notice of the proposed execution and delivery of the Second Supplemental Trust Indenture.

Date: June 1, 1996

THE BANK OF TOKYO, NEW YORK  
AGENCY

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title: \_\_\_\_\_